

MICHEAL LYNN MERRIVAL JR. 2313881
Name and Prisoner/Booking Number

PENNINGTON COUNTY JAIL
Place of Confinement

307 SAINT JOSEPH STREET
Mailing Address

RAPID CITY, SOUTH DAKOTA 57701
City, State, Zip Code

FILED

APR 20 2017

[Signature]
CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

MICHEAL LYNN MERRIVAL JR.
(Full Name of Plaintiff)

Plaintiff,

MARTY J. JACKLEY
PENNINGTON COUNTY
BRIAN MUELLER
PENNINGTON COUNTY JAIL
(Full Name of Each Defendant)

Defendants.

Case No. 17-5031
(To be supplied by the Clerk)

CIVIL RIGHTS COMPLAINT
BY A PRISONER

JURY TRIAL DEMANDED

- ☒ Original Complaint
☐ First Amended Complaint
☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:
a. ☒ 28 U.S.C. § 1343(a)(3); 42 U.S.C. § 1983
b. ☐ 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).
c. ☐ Other: (Please specify.) _____

2. Name of Plaintiff: MICHEAL LYNN MERRIVAL JR. # 2313881
Present mailing address: 307 SAINT JOSEPH STREET, RAPID CITY, S.D. 57701
(Failure to notify the Court of any change of address may result in dismissal of this action.)

Institution/city where violation occurred: PENNINGTON COUNTY JAIL - RAPID CITY

3. Name of first Defendant: MARTY J. JACKLEY. The first Defendant is employed as: ATTORNEY GENERAL at STATE OF SOUTH DAKOTA.
 (Position and Title) (Institution)
 This Defendant is sued in his/her: ☒ individual capacity ☒ official capacity (check one or both)
 Explain how this Defendant was acting under color of law: Defendant is an Attorney General of the State of South Dakota
4. Name of second Defendant: PENNINGTON COUNTY. The second Defendant is employed as: COUNTY at STATE OF SOUTH DAKOTA.
 (Position and Title) (Institution)
 This Defendant is sued in his/her: ☒ individual capacity ☒ official capacity (check one or both)
 Explain how this Defendant was acting under color of law: Defendant is an Official and Individual County of the State law.
5. Name of third Defendant: BRIAN MUELLER. The third Defendant is employed as: CHIEF DEPUTY at PENNINGTON COUNTY JAIL.
 (Position and Title) (Institution)
 This Defendant is sued in his/her: ☒ individual capacity ☒ official capacity (check one or both)
 Explain how this Defendant was acting under color of law: Defendant is an Official Chief Deputy at the Pennington County Jail
6. Name of fourth Defendant: PENNINGTON COUNTY JAIL. The fourth Defendant is employed as: COUNTY JAIL at PENNINGTON COUNTY.
 (Position and Title) (Institution)
 This Defendant is sued in his/her: ☒ individual capacity ☒ official capacity (check one or both)
 Explain how this Defendant was acting under color of law: Defendant is an Official County Jail of the Pennington County of the State.

(If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.)

B. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☒ Yes ☐ No
2. If your answer is "yes," how many lawsuits have you filed? 1. Describe the previous lawsuits in the spaces provided below.
3. First prior lawsuit:
 a. Parties to previous lawsuit:
 Plaintiff: MICHEAL LYNN MERRIVAL JR

Defendants: CAPTAIN HAGA, Pennington County
Jail Captain

- b. Court: (If federal court, identify the district; if state court, identify the county.) DISTRICT OF SOUTH DAKOTA
UNITED STATES DISTRICT COURT WESTERN DIVISION
- c. Case or docket number: CIV. 15-05023-JLV
- d. Claims raised: Cruel and Unusual Punishment of the 8th Constitutional Amendment
- e. Disposition: (For example: Was the case dismissed? Was it appealed? Is it still pending?)
THIS CASE IS STILL PENDING!
- f. Approximate date lawsuit was filed: MARCH 30, 2015
- g. Approximate date of disposition: _____

4. Second prior lawsuit:

- a. Parties to previous lawsuit:
 Plaintiff: NA
 Defendants: NA
NA
- b. Court: (If federal court, identify the district; if state court, identify the county.) _____
NA
- c. Case or docket number: NA
- d. Claims raised: NA
NA
NA
- e. Disposition: (For example: Was the case dismissed? Was it appealed? Is it still pending?)
NA
- f. Approximate date lawsuit was filed: NA
- g. Approximate date of disposition: NA

5. Third prior lawsuit:

- a. Parties to previous lawsuit:
 Plaintiff: NA
 Defendants: NA
NA
- b. Court: (If federal court, identify the district; if state court, identify the county.) _____
NA
- c. Case or docket number: NA
- d. Claims raised: NA
NA
NA
- e. Disposition: (For example: Was the case dismissed? Was it appealed? Is it still pending?)
NA
- f. Approximate date lawsuit was filed: NA
- g. Approximate date of disposition: NA

(If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.)

C. CAUSE OF ACTION

COUNT I

1. The following constitutional or other federal right has been violated by the Defendant(s):

EQUAL PROTECTION OF THE LAWS OF THE FOURTEENTH
(14th) CONSTITUTIONAL AMENDMENT OF THE UNITED STATES

2. Count I involves: (Check only one; if your claim involves more than one issue, each issued should be stated in a different count)

☐ Disciplinary proceedings ☐ Medical care ☒ Access to the court ☐ Mail
☐ Excessive force by an officer ☐ Retaliation ☐ Exercise of religion ☐ Property
☐ Threat to safety ☒ Other: To Prosecute Violations of Law

3. **Supporting Facts:** (State as briefly as possible the FACTS supporting Count I. Describe exactly what each Defendant did or did not do to violate your rights. State the facts clearly in your own words without citing legal authority or arguments).

Within the year of 2014 and within trial case files of 13-859 and 14-3448 of the Seventh Judicial Circuit Court of Pennington County South Dakota a state's attorney of the Pennington County State's Attorneys Office, Chief Deputy Ms. Lara Roetzel committed the crime of perjury an infamous offense. This Ms. Roetzel made false material while under oath and within the presence of a court tribunal. Mr. Merrival proceeded to have the Pennington County Sheriff's investigate the perjury offense and opened up a case file. Penn. Sheriff's forwarded the case to the Criminal Investigation Department who forwarded it to the Internal Affairs Division of Criminal Investigation S.A. Jeff Goble who investigated the entire infamous crime of perjury and concluded a complete investigation brought the crime to Marty J. Jackley Attorney General of South Dakota for prosecution but Mr. Jackley refused to prosecute Ms. Roetzel for she was prosecuting Mr. Merrival. Mr. Jackley stated to S.A. Goble he will not prosecute.

4. **Injury:** (State how you have been injured by the actions or inactions of the Defendant(s)).

My INJURIES are imprisoned under an unconstitutional sentence of the case files that obtained the perjury crime. My child support obligations and housing in community been deprived along with to continue equally protected from crimes of official malfeasance still injured.

5. **Administrative Remedies:**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
b. Did you submit a request for administrative relief on Count I? ☒ Yes ☐ No
c. Did you appeal your request for relief on Count I to the highest level? ☒ Yes ☐ No
d. If you did not submit or appeal a request for administrative relief to the highest level, briefly explain why you did not. _____

COUNT II

1. The following constitutional or other federal right has been violated by the Defendant(s):
THE RIGHT TO PRIVILEGES AND IMMUNITIES NOT TO BE ABRIDGED OF THE FOURTEENTH (14th) CONSTITUTIONAL AMENDMENT OF THE UNITED STATES

2. Count II involves: (Check only one; if your claim involves more than one issue, each issued should be stated in a different count)
- | | | |
|---|---|---|
| <input type="checkbox"/> Medical care | <input checked="" type="checkbox"/> Access to the court | <input checked="" type="checkbox"/> Mail |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Retaliation | <input type="checkbox"/> Exercise of religion |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Property |
| <input checked="" type="checkbox"/> Other: <u>Self Representation</u> | | |

3. **Supporting Facts:** (State as briefly as possible the FACTS supporting Count II. Describe exactly what each Defendant did or did not do to violate your rights. State the facts clearly in your own words without citing legal authority or arguments).

PENNINGTON COUNTY abridges my right to PRIVILEGES AND IMMUNITIES as I exercise my right to represent self within (2) two federal case matters of civil lawsuit case # 15-05023-JLV and habeas corpus # 17-5026-JLV and two state case matters of felony fugitive hold from Nebraska and state parole hold and DOC hold. Mr. Merrival also is a self-representative in the state child support cases. Mr. Merrival's access to the courts and attorney-work product and legal mail is subject to inspection with no attorney-client privileges attached to neither legal mail or Mr. Merrival's. The Penn. County abridges Mr. Merrival's work-product IMMUNITIES as being all time discoverable without privacy and Pennington County forces upon themselves to be a third-party with privileges and immunities in Mr. Merrival's self-represented work-product. Mr. Merrival's legal mail as his work-product are being denied. Pennington County abridges all Mr. Merrival's self-representation work-product privileges and immunities.

4. **Injury:** (State how you have been injured by the actions or inactions of the Defendant(s)).

Mr. Merrival's work-product to be sheltered under privileges and immunities are denied to injure an exposure to all his work-product protection. Injuring child support cases to the federal civil lawsuit to habeas corpus proceedings are all damaged from privileges and immunities.

5. **Administrative Remedies:**

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- Did you submit a request for administrative relief on Count II? ☒ Yes ☐ No
- Did you appeal your request for relief on Count II to the highest level? ☒ Yes ☐ No
- If you did not submit or appeal a request for administrative relief to the highest level, briefly explain why you did not. _____

COUNT III (3)

1. The following constitutional or other federal right has been violated by the Defendant(s): THE RIGHT TO PRIVILEGES AND IMMUNITIES NOT TO BE ABRIDGED UNDER THE (14th) FOURTEENTH AMENDMENT OF THE CONSTITUTION OF UNITED STATES AND THE PRIVILEGE AGAINST SELF-INCRIMINATION OF THE (5th) FIFTH CONSTITUTIONAL AMEND.

2. Count III involves: (Check only one; if your claim involves more than one issue, each issued should be stated in a different count)

- ☐ Medical care ☒ Access to the court ☒ Mail
☐ Disciplinary proceedings ☐ Retaliation ☐ Exercise of religion ☐ Property
☐ Excessive force by an officer ☐ Threat to safety ☒ Other: Self-Representation

3. **Supporting Facts:** (State as briefly as possible the FACTS supporting Count III. Describe exactly what each Defendant did or did not do to violate your rights. State the facts clearly in your own words without citing legal authority or arguments).

Mr. Chief Deputy Brian Mueller spoke with Mr. Merrival about his legal mail is being denied access to the state and federal courts and that on acknowledgment of Mr. Merrival being a self-representative in legal matters of state and federal courts are abridged of PRIVILEGES and IMMUNITIES and Mr. Merrival's attorney-client privileges are abridged from mail inspection and mail services. Mr. Mueller allows his county jail staff to monitor Mr. Merrival's communication of the phone calls he speaks about his cases. Mr. Mueller forces Mr. Merrival's communication of self-representation phone calls to be monitored and recorded to use against him. Mr. Mueller forces himself and his staff to have privileges and immunities of a third-party upon Mr. Merrival's self-represented legal matters in work-product. Mr. Mueller ignores Mr. Merrival's notice to his staff members to have no privileges or immunities upon Mr. Merrival's self-representation in legal matters. Mr. Mueller exposes as discoverable to Mr. Merrival's work-product.

4. **Injury:** (State how you have been injured by the actions or inactions of the Defendant(s)). All self-represented legal matters and work-product of Mr. Merrival is damaged and abridge from privileges and immunities. Mr. Merrival's work-product is exposed from privacy and is monitored and recorded. Self-represented legal matters are damaged.

5. **Administrative Remedies:**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
b. Did you submit a request for administrative relief on Count III? ☒ Yes ☐ No
c. Did you appeal your request for relief on Count III to the highest level? ☒ Yes ☐ No
d. If you did not submit or appeal a request for administrative relief to the highest level, briefly explain why you did not. _____

COUNT III (4)

1. The following constitutional or other federal right has been violated by the Defendant(s): THE RIGHT TO PRIVILEGES AND IMMUNITIES NOT TO BE ABRIDGED UNDER THE (14th) FOURTEENTH AMENDMENT OF THE CONSTITUTION OF UNITED STATES AND THE RIGHT TO EQUAL PROTECTION OF THE LAWS OF THE FOURTEENTH (14th) AMEND. CONST..

2. Count III involves: (Check only one; if your claim involves more than one issue, each issued should be stated in a different count)
- | | | |
|--|---|---|
| <input type="checkbox"/> Medical care | <input checked="" type="checkbox"/> Access to the court | <input checked="" type="checkbox"/> Mail |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Retaliation | <input type="checkbox"/> Exercise of religion |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input checked="" type="checkbox"/> Other: <u>Self-Representation</u> |

3. **Supporting Facts:** (State as briefly as possible the FACTS supporting Count III. Describe exactly what each Defendant did or did not do to violate your rights. State the facts clearly in your own words without citing legal authority or arguments).

The Pennington County Jail is holding as custodial of Mr. Merrival as an inmate who is representing-self in both State and Federal Courts and a self-representative in state child support cases and state parole and DDC holds. Also a self-representative in a fugitive hold from Nebraska. The PCJ is housing Mr. Merrival from 2013 to 2017 todays date. The PCJ exposes itself as a privileged third-party to Mr. Merrival's self-represented legal matters. PCJ abridges Mr. Merrival's privileges and immunities to his self-represented work-product in all his legal matters. Mr. Merrival is to be protected by all laws in equalism as a self-represented legal litigant in State and Federal courts, but PCJ treats Mr. Merrival's self-representation as an inmate with no rights to legal privileges and immunities and denies legal mail to be served to courts. Mr. Merrival noticed the PCJ to be not privileged with Mr. Merrival's entire self-represented legal work-product as a third-party but PCJ still abridges and deprives Mr. Merrival's rights.

4. **Injury:** (State how you have been injured by the actions or inactions of the Defendant(s)).

All Mr. Merrival's self-represented legal work-product and legal matters of both State and Federal are all damaged and injured and all proceedings are exposed to discoverable matters. Mr. Merrival's self-representation is injured and not protected under privileges and immunities.

5. **Administrative Remedies:**

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- Did you submit a request for administrative relief on Count III? ☒ Yes ☐ No
- Did you appeal your request for relief on Count III to the highest level? ☒ Yes ☐ No
- If you did not submit or appeal a request for administrative relief to the highest level, briefly explain why you did not. _____

(If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.)

D. REQUEST FOR RELIEF

State briefly what you want the Court to do for you.

Mr. Merrival request the Honorable Court for RELIEF of state child support cases and to release holds from parole agents and DOC and to release the fugitive hold from Nebraska. Mr. Merrival is requesting all his self-represented legal matters to be declaratory decreed judgment against civil matter 15-05023-JLV defendant Captain Haga and against habeas corpus matter 17-5026-JLV respondent's Warden Robert Dooley and Attorney General Marty J. Jackley of the State of South Dakota to relieve from an unconstitutional conviction and sentence. Mr. Merrival is requesting the Honorable Court to a summary judgment against Pennington County Jail's Captain Haga in CIV.15-05023-JLV to award Mr. Merrival with \$2,000,000.00 dollars for cruel and unusual punishment of his 8th Amendment claim for relief. Mr. Merrival request for these RELIEFS of DEFENDANTS.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 4-17-2017
DATE


SIGNATURE OF PLAINTIFF

NA
(Name and title or paralegal, legal assistant, or other person who helped prepare this complaint)

NA
(Signature of attorney, if any)

NA
NA
NA
NA
NA
(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If needed, you may attach additional pages. The form, however, must be completely filled in to the extent applicable.